

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Larry D. Woods)	
	Ward 93, Block 719, Parcel K19)	Shelby County
	Residential Property)	
	Tax year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

On September 1, 2005, the Shelby County Assessor of Property issued notice of the following prorated assessment of the subject property:¹

Original Appraisal	Original Assessment	Prorated Appraisal	Prorated Assessment
\$50,600	\$12,650	\$91,600	\$22,900

On March 20, 2006, the State Board of Equalization ("State Board") received an appeal by the property owner.

The undersigned administrative judge conducted a hearing of this matter on October 17, 2006 in Memphis. In attendance at the hearing were the appellant, Larry D. Woods; his brother Harold Woods; and Assessor's representative Ronald Nesbitt.

Findings of Fact and Conclusions of Law

This appeal concerns a single-family residence located at 6515 South Copper Valley Drive in Memphis. The appellant purchased this property from D. Scott Jenkins on November 26, 2003 for \$28,000. As explained by Larry Woods on the State Board appeal form, the house had been "heavily damaged by fire." He did not inquire as to the appraised value of the property (for tax purposes); nor did he appeal the Assessor's value to the Shelby County Board of Equalization in tax year 2004 or 2005.

After acquiring the subject property, the appellant spent upwards of \$60,000 on what turned out be a lengthy restoration project. Not until November, 2005, Mr. Woods recalled, did he actually move into the house. He estimated the property to be worth about \$130,000 at that time.

On the appellant's deed to the subject property, he was named as the person to whom the tax bills should be mailed *at the above address*. Thus the Assessor's office sent the aforementioned proration letter to that address. This letter included a statement of the taxpayer's statutory right of appeal to the State Board "within forty-five (45) days after notice is

¹This notice informed the taxpayer that, according to the Assessor's records, "modification to your improvements were (*sic*) completed by 06/27/2005." The prorated appraisal was based on an estimated market value of \$130,600.

sent.”² Mr. Woods, who was still living elsewhere at the time, testified that he did not receive the letter. It was the ensuing tax bill which apparently prompted this appeal – which was filed over six months after the date of the assessment change notice.

Tenn. Code Ann. section 67-5-603(b) provides (in relevant part) that:

(1) If, after January 1 and before September 1 of any year, an improvement or new building is completed and ready for use or occupancy,...the assessor of property shall make or correct the assessment of such property, on the basis of the value of the improvement **at the time of its completion**, notwithstanding the status of the property as of the assessment date of January 1; provided, that for the year in which such improvement or building is completed, the assessment, or increase in assessment, of the improvement shall be prorated for the portion of the year following the date of its completion.

...

(2) For the purpose of assessment, an improvement or new building shall be deemed completed and ready for use or occupancy **when the structural portion of the building or improvement is substantially completed**, even though the interior finish or certain appointments may be left to the choice of a prospective buyer or tenant after consummation of a sale or lease of the property.

(3) Any improvement or new building shall be deemed completed and to have a value for assessment purposes when the real property upon which such improvement or new building is located shall have been conveyed to a bona fide purchaser, or when such new building or improvement has been occupied or used **or shall be suitable for occupancy or use, whichever shall first occur. In no event shall any improvement or new building be considered incomplete for valuation or assessment purposes for more than one (1) calendar year immediately following the date on which such construction was commenced.**

[Emphasis added.]

Tenn. Code Ann. section 67-5-1412(e) permits the State Board, upon a showing of “reasonable cause” by the taxpayer, to accept a late appeal “up to March 1 of the year subsequent to the year in which the assessment was made.” This appeal was filed after March 1, 2006; hence the reasonable cause statute is inapplicable. Moreover, the mere non-receipt of an assessment change notice duly sent to the very address provided by the taxpayer (or his attorney or agent) on the deed would not have constituted reasonable cause for waiver of the 45-day appeal deadline. See, e.g., Flat Iron Partners, LP (Tipton County, Tax Year 2005, Final Decision and Order, October 17, 2006).

Further, even if this appeal were properly before the State Board, the appellant did not really disagree with the Assessor’s “market appraisal” of the subject property upon the completion of the restoration project (\$130,600). Nor did Mr. Woods introduce sufficient

²See Tenn. Code Ann. section 67-5-1412(e).

evidence to establish that the structural portion of this house had not been "substantially completed" (within the meaning of the quoted proration statute) by September 1, 2005.

Order

It is, therefore, ORDERED that this appeal be dismissed.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 13th day of November, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Larry D. Woods
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office